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U.S. COURTS
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CLERK
IDAHO

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO

ORIGINAL

IN RE:)	
)	
Richard Steven Gordon and)	Case No. 01-00288
Barbara Lynn Gordon,)	
)	OBJECTION TO CONFIRMATION
Debtors.)	OF CHAPTER 13 PLAN
)	

COMES NOW, the United States Attorney, acting on behalf of the Internal Revenue Service (the Service), and moves that confirmation of debtors' Chapter 13 plan be denied.

IN SUPPORT THEREOF, the Service states:

1. The debtors filed a petition for relief under Title 11, Chapter 13 on February 6, 2001.

2. On February 14, 2001, the Service filed a proof of claim for federal taxes in the amount of \$9,062.14, of which amount \$7,562.14 represents secured claims and \$1,500.00 represents unsecured priority claims. A copy of the proof of claim is attached hereto as Exhibit A.

Objection to Confirmation

3. The debtors' plan fails to provide for payment of the Service's secured claim, in the amount of \$7,562.14. Debtors have equity in their real and personal property in at least the amount of \$58,248.44. Accordingly, the Service is entitled to full payment of its secured claim, with interest at the rate of 10% thereon.

4. The unsecured priority claim is estimated because the debtors failed to file their federal income tax return for the period shown in the Service's proof of claim. The Service has estimated the amount due on its proof of claim, but the actual amount could be more than the estimate. The Service objects to confirmation of the plan until it has received the unfiled return and the amount of the priority tax liability has been determined. See 11 U.S.C. §§ 1322(a) and 1325(b)(1)(A).

5. Except where the Court orders otherwise for good cause shown, the debtors must file all required tax returns prior to the date set for the initial hearing on confirmation of a plan. Failure to do so is grounds for dismissal. LBR 1007.4.

6. The proposed plan does not appear feasible. Debtors propose to pay \$280.00 per month for 58 months, for a total of \$16,240.00. According to the debtors' plan they propose to pay:

¶ 4(a)(2) - \$630.00 to their attorney

¶ 4(a)(4) - \$1,500.00, the amount estimated by IRS for taxes

¶ 4(b)(1) - \$882.18 to Owyhee County

¶ 4(b)(2) - \$7,675.72 to Indy Mac Bank

Debtors will also be required to pay the Trustee's 10% commission

Objection to Confirmation

in the amount of \$1,624.00. The payments that will be required under the debtors' proposed plan aggregate \$12,311.90. Including the omitted secured claim of the Service, the amount due to be paid through the plan is \$19,874.04, or \$3,634.04 more than the payments through the plan. Debtors' proposed payments are inadequate to satisfy the obligations proposed to be paid. Debtors' plan is not feasible.

WHEREFORE, the Service prays that confirmation of debtors' Chapter 13 plan be denied.

Dated this 13th day of March, 2001.

BETTY H. RICHARDSON
United States Attorney

By


WARREN S. DERBIDGE
Assistant U.S. Attorney

Objection to Confirmation

UNITED STATES BANKRUPTCY COURT IDAHO DISTRICT OF IDAHO		PROOF OF CLAIM	
Name of Debtor RICHARD STEVEN & BARBARA LYNN GORDON		Case Number 01-00288 -13	
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		U.S. COURTS 01 FEB 14 AM 11:25 REC'D CAMERON S. BURKE CLERK IDAHO COPY THIS SPACE IS FOR COURT USE ONLY	
Name of Creditor (The person or entity to whom the debtor owes money or property): Department of the Treasury - Internal Revenue Service			<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
Name and addresses where notices should be sent: Internal Revenue Service 550 West Fort St MSC 041 Stop SPF Boise, ID 83724-0041			<input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.
Telephone number: (208) 334-1360 Creditor #: 1562927			<input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Account or other number by which creditor identifies debtor: see attachment		Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim, dated: _____	
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input checked="" type="checkbox"/> Taxes <input type="checkbox"/> Other _____ <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS #: _____ Unpaid compensation for services performed from _____ to _____ (date) (date)			
2. Date debt was incurred: see attachment		3. If court judgment, date obtained:	
4. Total Amount of Claim at Time Case Filed: \$ 9,062.14 If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
5. Secured Claim. <input checked="" type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input checked="" type="checkbox"/> Real Estate <input checked="" type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other <u>see below</u> Value of Collateral: \$ <u>see below</u> <small>* All of debtor(s) right, title and interest to property - 26 U.S.C. § 6321.</small> Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ 7,562.14		6. Unsecured Priority Claim. <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ 1,500.00 Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4000)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$1800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input checked="" type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>* Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY	
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
9. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 02/13/2001	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>nm</u> <u>Insolvency Manager</u>		
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.			

Ex A

Proof of Claim For Internal Revenue Taxes

Department of the Treasury/Internal Revenue Service

Form 10
Attachment

In the Matter of: RICHARD STEVEN & BARBARA LYNN GORDON
RT 1 BOX 3806
HOMEDALE, ID 83628

Docket Number

01-00288

Type of Bankruptcy Case

Chapter 13

Date of Petition

02/06/2001

This claim is not subject to any setoff or counterclaim.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Lien Filed: Date Office Location
519-52-5804	INCOME	12/31/1994	05/29/1995	\$843.00	\$232.25	\$600.86	09/08/2000 OWYHEE
519-52-5804	INCOME	12/31/1996	08/16/1999	\$2,233.00	\$390.78	\$897.07	09/08/2000 OWYHEE
519-52-5804	INCOME	12/31/1997	12/06/1999	\$1,065.71	\$218.47	\$288.57	09/08/2000 OWYHEE
519-52-5804	INCOME	12/31/1998	05/17/1999	\$288.00	\$59.04	\$48.29	09/08/2000 OWYHEE
519-52-5804	INCOME	12/31/1999	05/15/2000	\$342.00	\$29.07	\$26.03	09/08/2000 OWYHEE
				\$4,771.71	\$929.61	\$1,860.82	

Total Amount of Secured Claims: \$7,562.14

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
519-52-5804	INCOME	12/31/2000	0 UNFILED RETURN	\$1,500.00	\$0.00

Total Amount of Unsecured Priority Claims: \$1,500.00

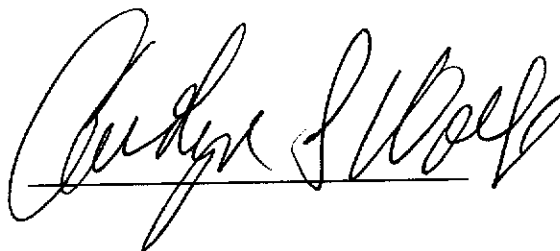
CERTIFICATE OF SERVICE

I HEREBY CERTIFY I am an employee of the Office of the United States Attorney for the District of Idaho, and that a copy of the foregoing OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN was mailed, postage prepaid to all parties named below, on this 13th day of March, 2001:

Bernie R. Rakozy
Trustee
POB 1738
Boise, ID 83701

Cyrus J. Roedel
Attorney for Debtors
355 W. Myrtle St, #302
Boise, ID 83702-7656

Richard S. and Barbara L. Gordon
Debtors
Route 1 Box 3806
Homedale, ID 83628

A handwritten signature in cursive script, appearing to read "Cyrus J. Roedel", written over a horizontal line.

Objection to Confirmation